REMARKS

Claims 1-20 are currently pending in the subject application, and are presently under consideration. Claims 1-20 are rejected. Favorable reconsideration of the application is requested in view of the amendments and comments herein.

A New Declaration under 35 C.F.R. §1.131 is being filed with this Amendment. It is respectfully submitted that the New Declaration cures the deficiencies of the declaration filed on June 20, 2005. Specifically, all inventors named in the Application have signed the New Declaration.

I. U.S. Patent Publication 2003/0005291 to Burn is Not Prior Art

The Office Action has rejected claims 1-16 Under 35 U.S.C. §102 and 35 U.S.C §103 based on U.S. Patent Publication No. 2003/0005291 to Burn ("Burn") and 35 U.S.C §103 based on Burn in view of U.S. Patent Publication No. 2002/0078347 to Hericourt, et al. ("Hericourt"). Both Burn and Hericourt have an effective filing date of December 20, 2000. A New Declaration under 35 C.F.R. §1.131 is being filed with this Amendment ("New Declaration"). It is respectfully submitted that the New Declaration presents facts sufficient to antedate the Burn reference and the Hericourt reference. Specifically, the showing of facts in the New Declaration and exhibits establishes conception of the present invention in this country prior to the effective date (December 20, 2000) of Burn and Hericourt, coupled with due diligence to a constructive reduction of practice on December 19, 2001. Therefore, it is respectfully submitted that Burn and Hericourt should be withdrawn as prior art and, as a result, rejections in the Office Action relying on Burn and Hericourt should be withdrawn.

Exhibit A ("Exhibit A") of the New Declaration is being submitted to show conception of the invention prior to the effective date of Burn and Hericourt. Conception is complete when an idea is defined clearly enough in an inventors mind that merely ordinary skill would be necessary to reduce the invention to practice. *Seewall v. Waters*, 21 F.3d 411, 415, 30 U.S.P.Q.2d 1356, 1359 (Fed. Cir. 1994). The averment in the Declaration that the paper in the form of a

PowerPoint® presentation corresponding to Exhibit A was written by a named inventor prior to December 20, 2000 is sufficient to establish conception prior to the effective date of Burn and Hericourt. See MPEP 715.07. For example, on page 6 of Exhibit A states that a badging officer creates a badge, including a picture, fingerprint and a PKI certificate. The badge disclosed on page 6 could be, for example, a token, as mentioned on page 7 of Exhibit A. Thus, it is clear that one of ordinary skill in the art could reduce at least independent claims 1 and 11 to practice without undue experimentation in view of Exhibit A.

Additionally, the New Declaration establishes due diligence from just prior to December 20, 2000 until the date of constructive reduction to practice when the application was filed on December 19, 2001. The New Declaration demonstrates that a named inventor completed a second written description in the form of a PowerPoint® presentation (Exhibit B) on January 4, 2001. Further, the inventors submitted an invention disclosure (Exhibit C) on February 19, 2001. On April 5, 2001, the invention was forwarded to the Assignee's attorney, Donald E. Stout, for preparation of a patent application, as evidenced by Exhibit D. A request for additional information was sent from Henry M. Zykorie, Assignee's attorney, to one of the named inventors on April 11, 2001, as evidenced by Exhibit E. On May 3, 2001, a named inventor sent the information requested in Exhibit E to the Henry M. Zykorie, as evidenced by Exhibit F. A draft of the patent application was sent to the Assignee on June 22, 2001, as evidenced by Exhibit G. Changes to the draft were suggested, and the changes were forwarded to Henry M. Zykorie on October 18, 2001 as evidenced by Exhibit H. A second draft of the Application was forwarded to the Assignee on October 26, 2001, as evidenced by Exhibit I. A patent application was submitted to the United States Patent and Trademark Office on December 19, 2001. It is respectfully submitted that the patent attorney exercised reasonable diligence in drafting and filing the present application. Reasonable diligence does not require that a patent attorney engaged in normal practice to concentrate on any one application to the exclusion of others. *Watkins v. Wakefield*, 443 F.2d 1207, 170 U.S.P.Q. 274, 275 (C.C.P.A. 1971). Thus, the Application has established conception prior to Burn and Hericourt's effective date of December 20, 2000, and diligence from the conception to the constructive reduction to practice on

December 19, 2001. Accordingly, in view of the above arguments, the Declaration under 37 CFR §1.131 is entitled to antedate Burn and Hericourt.

II. The Rejection of Claims 1 and 11 Under 35 U.S.C. §102(e) Should be Withdrawn

Claims 1 and 11 stand rejected under 35 U.S.C. §102(e) as being fully anticipated by Burn. Withdrawal of this rejection is respectfully requested for at least the following reasons.

For the reasons stated above, Burn does not constitute prior art for the present application. Accordingly, any rejection of the present application based on Burn must be withdrawn.

For the reasons described above, claims 1 and 11 should be patentable over the cited art. Accordingly, withdrawal of this rejection is respectfully requested.

III. The Rejection of Claims 2-4, 9-10, 12-14 and 19-20 Under 35 U.S.C. §103(a) Should be Withdrawn

Claims 2-4, 9-10, 12-14 and 19-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burn. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claims 2-4 and 9-10 depend directly or indirectly from claim 1 and are patentable for substantially the same reasons as claim 1 and for the specific elements recited therein. As stated above, Burn does not constitute prior art of the present application. Accordingly, any rejection of the present application based on Burn must be withdrawn. Thus, claims 2-4 and 9-10 are patentable over the cited art.

Claims 12-14 and 19-20 depend directly or indirectly from claim 11 and are patentable for substantially the same reasons as claim 11 and for the specific elements recited therein. As stated above, Burn does not constitute prior art of the present application. Accordingly, any rejection of the present application based on Burn must be withdrawn. Thus, claims 12-14 and 19-20 are patentable over the cited art.

For the reasons described above, claims 2-4, 9-10, 12-14 and 19-20 should be patentable over the cited art. Accordingly, withdrawal of this rejection is respectfully requested.

IV. The Rejection of Claims 5-8 and 15-18 Under 35 U.S.C. §103(a) Should be Withdrawn

Claims 5-8 and 15-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burn as applied to claim 4 above, and further in view of Hericourt. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claims 5-8 depend directly or indirectly from claim 4 and are patentable for substantially the same reasons as claim 4 and for the specific elements recited therein. As stated above, neither Burn nor Hericourt constitute prior art of the present application. Accordingly any rejection of the present application based on Burn or Hericourt must be withdrawn. Thus, Claims 5-8 are patentable over the cited art.

Claims 15-18 depend directly or indirectly from claim 14 and are patentable for substantially the same reasons as claim 14 and for the specific elements recited therein. As stated above, neither Burn nor Hericourt constitute prior art of the present application. Accordingly any rejection of the present application based on Burn or Hericourt must be withdrawn. Thus, Claims 15-18 are patentable over the cited art.

For the reasons described above, claims 5-8 and 15-18 should be patentable over the cited art. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the present application is in condition for allowance. Applicant respectfully requests reconsideration of this application and that the application be passed to issue.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

Date 11/21/05

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